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ATTORNEYS FOR FIRSTCAPITAL BANK OF TEXAS, N.A.

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
WICHITA FALLS DIVISION

IN RE: §  
MICHAEL EDWARD LEDUE AND § CASE NO. 19-70323-11  
CONSTANCE ELLEN LEDUE, §  
DEBTORS. §

**OBJECTION TO CONFIRMATION AND DISCLOSURE STATEMENT**

FirstCapital Bank of Texas, N.A. (“FirstCapital”) files this its Objection to Confirmation and Disclosure Statement and would show the Court the following:

**1. Claims of FirstCapital.** On the petition date, FirstCapital held claims against Michael Edward Ledue in the total amount of \$289,997.95 as set forth in the following claims:

POC NUMBER	AMOUNT	BASIS
12	\$166,488.26	Loan
13	\$29,804.16	Loan
14	\$59,344.32	Guaranty
15	\$34,361.21	Guaranty

Debtor has not objected to the claims of FirstCapital.

**2. Objection to Disclosure Statement.** The disclosure statement is the primary mechanism for a creditor to make a determination whether to vote for or against a plan. The disclosure statement fails to provide meaningful information on

what unsecured creditors will receive, on what will distributions be determined, and how an unsecured creditor can determine the expected, much less minimum payment, the creditor will receive. Debtor's liquidation analysis states liquidation value analysis of \$435,375.00. This should more than support a payment of 100% to unsecured creditors; yet, the proposed plan provides for a 5% payment to unsecured creditors.

**3. Not Fair and Equitable.** FirstCapital has voted against the plan. Furthermore, FirstCapital represents 90% of the unsecured creditor class. Accordingly, the plan must be fair and equitable to the unsecured creditors. FirstCapital is entitled to the present value of its claims. A five percent (5%) payment to unsecured creditors fails the fair and equitable test. Furthermore, the plan fails to provide any meaningful analysis on Debtors' projected disposable income.

**4. Liquidation Test.** Under the liquidation test and the Debtors' liquidation analysis, unsecured creditors would be paid in full. A five percent (5%) payment to unsecured creditors fails the liquidation test.

**5. Lack of Good Faith.** Under the totality of circumstances test at 11 U.S.C. § 1129(a)(3), the plan lacks good faith. For example, the Debtors' business as a practical matter is the same as Debtors' old business. Debtors have simply taken the assets, operations, and customers of their old business, on which FirstCapital held a first-lien security interest, and opened a new business with the same assets, operations, and customers.

WHEREFORE, PREMISES CONSIDERED, FirstCapital prays that confirmation be denied.

Date: June 8, 2020

Respectfully submitted,

**DAVISON RUGELEY, L.L.P.**  
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By: /s/ Hank Rugeley  
Hank Rugeley  
State Bar No. 17382900

ATTORNEYS FOR FIRSTCAPITAL  
BANK OF TEXAS, N.A.

### CERTIFICATE OF SERVICE

I hereby certify that on June 8, 2020, a true and correct copy of the foregoing was served on all parties of record via ECF or first-class mail as follows:

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